

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

C&J ASSOCIATES PEST CONTROL, <i>et al.</i> )	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO. 2:06CV884-MEF
	)	
BOB RILEY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER ON MOTION**

On November 28, 2006, Plaintiffs filed a “Motion for the Magistrate Judge to Issue an Order to Strike or Stay Defendants’ Motions to Dismiss and Issue an Order to Compel These State Officials to Permit (sic) Plaintiff to View and Copy the Bid Files for the Pest Control Proposal and the Pest Control Solicitations.” (Doc. #34). In Plaintiffs’ motion, they request that the Court strike or stay Defendants’ motions to dismiss and issue an order permitting Plaintiff Curtis Duncan to engage in discovery prior to responding to Defendants’ motions. As the undersigned Magistrate Judge previously has ordered (Doc. #49):

Facial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief, should . . . be resolved before discovery begins. Such a dispute always presents a purely legal question; there are no issues of fact because the allegations contained in the pleading are presumed to be true. Therefore, neither the parties nor the court have any need for discovery before the court rules on the motion.

Moore v. Potter, 141 Fed. Appx. 803, 807 (11th Cir. 2005) (citing Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1367 (11th Cir. 1997)). Therefore, consistent with the Court’s

previous order, it will not issue an order compelling Defendants to permit Plaintiff Curtis Duncan to view and copy the bid files for the pest control proposal and pest control solicitations.

Moreover, a federal district court has broad discretion in granting or denying a stay. See Landis v. N. American Co., 299 U.S. 248, 254-55 (1936); Campbell v. Eastland, 307 F.2d 478 (5th Cir. 1962) cert. denied 371 U.S. 955 (1963).<sup>1</sup> As Plaintiffs have already filed a response to Defendants' motions (Doc. #50), the Court finds Plaintiffs' motion MOOT. It is therefore

ORDERED that Plaintiffs' motion (Doc. #34) is DENIED as moot.

DONE this 28th day of February, 2007.

/s/ Wallace Capel, Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup>Bonner v. City of Prichard, 661 F.2d 1206 (11th Cir. 1981) (adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981).